

property is not the principal residence of at least one other mortgagor; or

(iii) An obligation of the mortgagor under the mortgage is not performed.

(d) *Second mortgage to Secretary.* Unless otherwise provided by the Secretary, a second mortgage to secure any payments by the Secretary as provided in § 206.121(c) must be given to the Secretary before a Mortgage Insurance Certificate is issued for the mortgage.

(Approved by the Office of Management and Budget under control number 2528-0133)

[54 FR 24833, June 9, 1989; 54 FR 32060, Aug. 4, 1989, as amended at 60 FR 42760, Aug. 16, 1995; 61 FR 49033, Sept. 17, 1996]

§ 206.29 Initial disbursement of mortgage proceeds.

Mortgage proceeds may not be disbursed at the initial disbursement or after closing (upon expiration of the 3-day rescission period under 12 CFR part 226, if applicable) except:

(a) Disbursements to the mortgagor, a relative or legal representative of the mortgagor, or a trustee for benefit of the mortgagor;

(b) Disbursements for the initial MIP under § 206.105(a);

(c) Fees that the mortgagee is authorized to collect under § 206.31;

(d) Amounts required to discharge any existing liens on the property;

(e) An annuity premium, if the premium was disclosed as part of the total cost of the mortgage under the disclosures required by 12 CFR part 226; and

(f) Funds required to pay contractors who performed repairs as a condition of closing, in accordance with standard FHA requirements for repairs required by appraisers.

[64 FR 2987, Jan. 19, 1999]

§ 206.31 Allowable charges and fees.

(a) *Fees at closing.* The mortgagee may collect, either in cash at the time of closing or through an initial payment under the mortgage, the following charges and fees incurred in connection with the origination of the mortgage loan:

(1) A charge to compensate the mortgagee for expenses incurred in originating and closing the mortgage loan: *Provided*, that the Secretary may es-

tablish limitations on the amount of any such charge which can be included in the mortgage loan.

(2) Reasonable and customary amounts, but not more than the amount actually paid by the mortgagee, for any of the following items:

(i) Recording fees and recording taxes, or other charges incident to the recordation of the insured mortgage;

(ii) Credit report;

(iii) Survey, if required by the mortgagee or the mortgagor;

(iv) Title examination;

(v) Mortgagee's title insurance;

(vi) Fees paid to an appraiser for the initial appraisal of the property; and

(vii) Such other charges as may be authorized by the Secretary.

(b) *Repair administration fee.* If the property requires repairs after closing in order to meet HUD requirements, the mortgagee may collect a fee as compensation for administrative duties relating to repair work pursuant to § 206.47(c), not to exceed the greater of one and one-half percent of the amount advanced for the repairs or fifty dollars. The mortgagee shall collect the repair fee by adding it to the mortgage balance.

[54 FR 24833, June 9, 1989; 54 FR 32060, Aug. 4, 1989]

§ 206.32 No outstanding unpaid obligations.

In order for a mortgage to be eligible under this part, a mortgagor must establish to the satisfaction of the mortgagee that:

(a) After the initial payment of loan proceeds under § 206.25(a), there will be no outstanding or unpaid obligations incurred by the mortgagor in connection with the mortgage transaction, except for repairs to the property required under § 206.47 and mortgage servicing charges permitted under § 206.207(b); and

(b) The initial payment will not be used for any payment to or on behalf of an estate planning service firm.

[64 FR 2988, Jan. 19, 1999]

ELIGIBLE MORTGAGORS

§ 206.33 Age of mortgagor.

The youngest mortgagor shall be 62 years of age or older at the time the